IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

ARBITRATION PETITION NO. 9 OF 2006

Shri Sharad Vasantrao Mohite .. Petitioner

Vs.

Shri Pandurang Khanduji Takle
and ors. .. Respondents

Mr. Amogh Paralikar for Petitioner.

CORAM : B. H. MARLAPALLE,J.

Date : March 10, 2006.

P.C.:

1. Heard Mr. Paralikar the learned counsel for the petitioner who is a builder/developer. It is submitted that by an agreement dated 8/6/1989 the respondents-farmers agreed to hand over their ancestral land in Survey Nos.634/1/2 and 717 for development. The petitioner claims to have started the work on the same date but the respondents after more than four years revoked his power of attorney vide their notice dated 8/12/1993. After about 3 years he approached to Shri Pandurang Bajrang Dhore, the named Arbitrator in the agreement and requested him to resolve the dispute. The respondents submitted to the jurisdiction of the sole Arbitrator on 1/1/1997 and they filed their reply on 1/9/1997. Nothing further happened except the petitioner disputing the

contentions of the respondents and finally Mr. Dhore died on 21/2/2003 without passing the award. This petition has been filed for replacing the Arbitrator.

2. The arbitration clause was invoked for the first time on 2/12/1996 and that too almost after 3 years from the date of revoking the power of attorney on 8/12/1993. The proceedings before the Arbitrator remained pending for almost six years and even from the demise of the Arbitrator this petition has been moved almost after 3 years. Though under Section 15 of the Act replacement of an Arbitrator could be considered but not in such a case as the present one which suffers from inordinate delays at every stage and has become a dead claim. No explanation has been furnished for such a delay. It is obvious that the petitioner is aware regarding the non availability of a civil remedy after 12 years and, therefore, this petition appears to be a last resort to find out some means to drag the respondents-farmers into litigation.

3. The petition is dismissed as being hopelessly time barred.

(B.H. Marlapalle, J.)